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Report of the Committee on the Elimination of Discrimination against Women*

Thirty-second session (10-28 January 2005)

* The present document is the report of the Committee on the Elimination of Discrimination against Women on the work of its thirty-second session. The final report will be issued in *Official Records of the General Assembly, Sixtieth Session, Supplement No. 38* (A/60/38), which will include the report of the Committee on its thirty-third session.

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18 March 2005

Letter of transmittal

Sir,

I have the honour to refer to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women, according to which the Committee on the Elimination of Discrimination against Women, established pursuant to the Convention, "shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities".

The Committee on the Elimination of Discrimination against Women held its thirty-second session from 10 to 28 January 2005 at United Nations Headquarters. It adopted its report on the session at the 683rd meeting, on 28 January 2005. The report of the Committee is herewith submitted to you for transmission to the General Assembly at its sixtieth session.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Rosario G. **Manalo**
Chairperson
Committee on the Elimination of Discrimination against Women

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

Chapter I

Matters brought to the attention of States parties

Decisions

Decision 32/I

The Committee adopted a statement on the occasion of the ten-year review and appraisal of the Beijing Declaration and Platform for Action, to be brought to the attention of the forty-ninth session of the Commission on the Status of Women (see annex I to the present report).

Decision 32/II

The Committee adopted a statement in regard to the gender aspects of the tsunami disaster that took place in South-East Asia in December 2004 (see annex II to the present report).

Chapter II

Organizational and other matters

A. States parties to the Convention on the Elimination of All Forms of Discrimination against Women and to the Optional Protocol

1. As at 28 January 2005, the closing date of the thirty-second session of the Committee on the Elimination of Discrimination against Women, there were 179 States parties to the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted by the General Assembly in its resolution 34/180 of 18 December 1979 and opened for signature, ratification and accession in New York in March 1980. In accordance with article 27, the Convention entered into force on 3 September 1981. Forty-five States parties had accepted the amendment to article 20, paragraph 1, of the Convention concerning the Committee's meeting time.

2. On the same date, there were 71 States parties to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted by the General Assembly in its resolution 54/4 of 6 October 1999 and opened for signature, ratification and accession in New York on 10 December 1999. In accordance with article 16, the Optional Protocol entered into force on 22 December 2000.

3. A list of States parties to the Convention, a list of States parties that have accepted the amendment to article 20, paragraph 1, concerning the Committee's meeting time, and a list of States parties that have signed, ratified or acceded to the Optional Protocol to the Convention will be contained in annexes to the final report of the Committee for 2005.

B. Opening of the session

4. The Committee held its thirty-second session at United Nations Headquarters from 10 to 28 January 2005. The Committee held 18 plenary meetings (666th to 683rd) and held 10 meetings to discuss agenda items 6, 7, 8 and 9. A list of the documents before the Committee will be contained in an annex to the final report of the Committee for 2005.

5. Rachel Mayanja, Assistant Secretary-General and Special Adviser to the Secretary-General on Gender Issues and Advancement of Women, who acted as temporary Chairperson, opened the session.

6. In addressing the Committee at its 666th meeting, on 10 January 2005, the Assistant Secretary-General and Special Adviser to the Secretary-General on Gender Issues and Advancement of Women welcomed members to the thirty-second session. She noted the pivotal role of the Committee in enhancing the accountability of Governments for adherence to their international legal obligations concerning women's enjoyment of their human rights. Referring to the Millennium Declaration of 2000 and the key targets of the Millennium Development Goals to be met by 2015, she pointed to progress as well as challenges in regard to women's education, wage-employment rates and political participation. Those areas were also among those which the Committee regularly addressed with States parties. The High-level

Plenary Meeting of the sixtieth session of the General Assembly, which is to undertake a comprehensive review of the progress made in the fulfilment of all the commitments contained in the Millennium Declaration, would be an opportunity to give careful attention to progress made in achieving Goal 3 on gender equality and the empowerment of women, as well as progress in women's equality with men in relation to the other Millennium Development Goals and related indicators.

7. Turning to Millennium Development Goal 6, on combating HIV/AIDS, malaria and other diseases, she drew attention to the highly alarming data on women's HIV/AIDS infection rates, especially to the link between women's vulnerability to HIV/AIDS infection and violence against women. She noted that both issues and their linkages were constant concerns in the Committee's work. The Committee regularly encouraged States parties to put in place holistic, multidisciplinary strategies to combat violence against women. Such strategies had become more urgent also because of the toll the AIDS pandemic was taking on women.

8. The Special Adviser referred to the Secretary-General's opening statement at the fifty-ninth session of the General Assembly, in which he had focused on the rule of law as the all-important framework for decision-making. She noted the importance of the rule of law for the promotion of gender equality, with the Convention on the Elimination of All Forms of Discrimination against Women forming the basis of the quest for equality for women. Adherence to the Convention and its implementation in practice contributed significantly to enhancing the rule of law and fostered a climate in which violations of the rights of women would not be tolerated, either nationally or internationally. She recalled that the Committee systematically examined women's de jure as well as de facto equality in reporting States and women's access to justice and means of redress for their grievances. The procedures under the Optional Protocol were increasingly seen as an integral part of both women's access to justice and full protection of the law.

9. Carolyn Hannan, Director of the Division for the Advancement of Women, welcomed the seven new members who had been elected at the 13th meeting of States parties to the Convention, on 5 August 2004, and congratulated the four experts who had been re-elected. She expressed her gratitude to the experts whose terms had expired on 31 December 2004, and in particular to Feride Acar, the former Chairperson. The Director reported on the results of the fifty-ninth session of the General Assembly, pointing out that no action had been taken on the Committee's request for additional meeting time, contained in its decision 31/I of July 2004.[1] She briefed the Committee on the commemorative event of 13 October 2004 to mark the twenty-fifth anniversary of the adoption of the Convention, for which Ms. Acar had been the moderator. The Committee's statement on the occasion and all other presentations had been widely disseminated.

10. The Director informed the Committee about preparations for the forty-ninth session of the Commission on the Status of Women, which would be held from 28 February to 11 March 2005 to conduct a comprehensive review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcome documents of the twenty-third special session of the General Assembly. Several panel discussions would be held, one of which would deal with the

[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38* (A/59/38), part two, chap. I.

synergies between the Platform and the Convention. The Committee Chairperson would be invited to participate in the panel.

11. Since the Committee's previous session, held in July 2004, the Division had implemented several technical assistance activities to strengthen the capacity of Governments to implement the Convention, including in Sierra Leone and Timor-Leste. She also reported on a round table of national human rights institutions and national machineries for the advancement of women, which had been jointly organized by the Division and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in November 2004 in Morocco. The Division had again collaborated with the Inter-Parliamentary Union in a one-day briefing session for parliamentarians. The Director thanked all Committee members who had contributed to those activities.

12. The Director noted that since the previous session, two States, the Federated States of Micronesia and the United Arab Emirates, had become parties to the Convention and the seven States, Gabon, Lesotho, Lithuania, the Niger, Nigeria, Slovenia and the United Kingdom of Great Britain and Northern Ireland, had become parties to the Optional Protocol. One more State, Lithuania, had accepted the amendment to article 20, paragraph 1, of the Convention. At the thirty-second session, the Committee would consider the reports of eight States parties and continue the work under the Optional Protocol to the Convention in regard to the petition and inquiry procedures. Discussions would continue on a general recommendation on article 2 of the Convention and on the proposals for harmonized reporting guidelines for all human rights treaties, including for an expanded core document and treaty-specific targeted reports. In accordance with established practice, the Committee would meet with representatives of non-governmental organizations (NGOs) and entities of the United Nations to receive information about the reporting States.

C. Solemn declaration

13. At the opening meeting of the thirty-second session of the Committee, before assuming their functions, the members elected at the 13th meeting of States parties to the Convention on 5 August 2004 made the solemn declaration provided for under rule 15 of the Committee's rules of procedure. They were: Magalys Arocha Dominguez, Mary Shanthi Dairiam, Françoise Gaspard, Tiziana Maiolo, Silvia Pimentel, Hanna Beate Schöpp-Schilling, Heisoo Shin, Glenda Simms, Anamah Tan, Regina Tavares da Silva and Xiaoqiao Zou.

D. Election of officers

14. At its 666th meeting, on 10 January 2005, the Committee, in accordance with article 19 of the Convention, elected by acclamation the following officers to serve for a term of two years: Rosario Manalo (Philippines), Chairperson; Meriem Belmihoub-Zerdani (Algeria) and Silvia Pimentel (Brazil), Vice-Chairpersons; and Dubravka Šimonović (Croatia), Rapporteur. At its 669th meeting, on 13 January, the Committee elected by acclamation Hanna Beate Schöpp-Schilling (Germany) as a Vice-Chairperson.

E. Adoption of the agenda and organization of work

15. The Committee considered the provisional agenda (CEDAW/C/2005/I/1) at its 666th meeting. The agenda was adopted as follows:

1. Opening of the session.
2. Solemn declaration by the new members of the Committee.
3. Election of officers.
4. Adoption of the agenda and organization of work.
5. Report of the Chairperson on activities undertaken between the thirty-first and thirty-second sessions of the Committee.
6. Consideration of the reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women.
7. Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women.
8. Ways and means of expediting the work of the Committee.
9. Activities of the Committee under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
10. Provisional agenda for the thirty-third session.
11. Adoption of the report of the Committee on its thirty-second session.

F. Report of the pre-session working group

16. At its ninth session, the Committee decided to convene a pre-session working group for five days prior to each session to prepare lists of issues and questions relating to the periodic reports that would be considered by the Committee at the subsequent session. At its thirty-first session, the Committee decided that lists of issues and questions would also be prepared on initial reports. The pre-session working group for the thirty-second session of the Committee met from 26 to 30 July 2004.

17. The following members, representing different regional groups, participated in the working group: Dorcas Frema Coker-Appiah (Africa), Françoise Gaspard (Western Europe and other States), Aída González Martínez (Latin America and the Caribbean), Victoria Popescu (Eastern Europe) and Heisoo Shin (Asia). The pre-session working group elected Ms. Popescu as its Chairperson.

18. The working group prepared lists of issues and questions relating to the reports of the following States parties: Algeria, Croatia, Gabon, Italy, the Lao People's Democratic Republic, Paraguay, Samoa and Turkey.

19. At the 667th meeting, Ms. Popescu introduced the report of the pre-session working group (see CEDAW/PSWG/2005/I/CRP.1 and Add.1-8).

G. Organization of work

20. At the 666th meeting, the Chief of the Women's Rights Section of the Division for the Advancement of Women, Christine Brautigam, introduced item 7, implementation of article 21 of the Convention, and item 8, ways and means of expediting the work of the Committee. Under item 7, three specialized agencies, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the International Labour Organization, had submitted reports in accordance with article 22 of the Convention (CEDAW/C/2004/I/3 and Add.1, 3 and 4). Under item 8, a report on ways and means of expediting the work of the Committee (CEDAW/C/2005/I/4) summarized relevant developments since the Committee's previous session. The report contained the Committee's statement on the occasion of the twenty-fifth anniversary of the adoption of the Convention (annex III). Also before the Committee was a report on the status of submission of reports by States parties under article 18 of the Convention, including a list of reports that had been submitted but not yet considered by the Committee (CEDAW/C/2005/I/2). Those matters would be taken up by the Committee as a Working Group of the Whole.

21. On 10 January, the Committee held a closed meeting with representatives of the specialized agencies and bodies of the United Nations at which country-specific information was provided, as well as information on the efforts made by the body or entity concerned to promote the provisions of the Convention at the national and regional levels through its own policies and programmes.

22. On 10 and 17 January, the Committee held informal public meetings with representatives of NGOs who provided information about the implementation of the Convention in States reporting at the thirty-second session.

23. At its closed meeting, on 26 January, the team leader of the Follow-up Unit, Treaties and Commission Branch of the OHCHR, Jane Connors, made a statement.

H. Membership of the Committee

24. A list of the members of the Committee, indicating the duration of their terms of office, will appear in an annex to the final report of the Committee for 2005.

Chapter III

Report of the Chairperson on the activities undertaken between the thirty-first and thirty-second sessions

25. At the 666th meeting, on 10 January, the report by Ms. Acar, the former Chairperson, who was unable to attend the opening meeting, was read by Ms. Popescu.

26. The former Chairperson informed the Committee about her meeting with the Secretary-General on 3 August 2004 to brief him on the results of the thirty-first session of the Committee and to bid him farewell at the end of her tenure as Chairperson. She also briefed the Committee on her meeting with representatives of the Permanent Mission of Mexico to the United Nations on 3 August 2004 to inform them of the Committee's decisions in regard to the inquiry under article 8 of the Optional Protocol.

27. The former Chairperson gave an overview of her attendance at the fifty-ninth session of the General Assembly, where she had briefed the Third Committee on the Committee's work under article 18 of the Convention, as well as on the adoption of general recommendation 25 on article 4, paragraph 1, of the Convention, on temporary special measures. She had drawn attention to the Committee's first decision under the complaints procedure of the Optional Protocol as well as the completion of the first inquiry. She had encouraged all Member States to use the occasion of the twenty-fifth anniversary of the adoption of the Convention to accelerate the momentum for implementation of the Convention and to strengthen efforts towards its universal ratification. She had placed particular emphasis on the Committee's continuing efforts to enhance its working methods, highlighting the progress achieved in the past year as a result of an informal meeting hosted by one of the Committee's members, Mr. Cornelis Flinterman, at the Netherlands Institute of Human Rights, and financially supported by the Government of the Netherlands. She stressed that those efforts were guided by the Committee's desire to achieve greater efficiency without jeopardizing the usefulness of the constructive dialogue with reporting States. She had paid considerable attention to the Committee's request for an extension of its meeting time, underlining the constraints faced by the Committee in dealing with all its responsibilities in a timely and effective manner. She had presented the rationale and implications that had led the Committee to request the extension of the annual meeting time in 2005 and 2006 and the long-term solution of holding three annual sessions as from 2007. She had appealed to the States Members of the United Nations to consider favourably the Committee's request. While the lack of action by the General Assembly on this proposal constituted a temporary setback, she urged the Committee to restate the need to find a short and long-term solution that would allow the Committee to tackle its workload effectively.

28. The former Chairperson also reported on the round-table discussion to celebrate the twenty-fifth anniversary of the adoption of the Convention by the General Assembly on 13 October. The round table provided the opportunity to highlight the role of the Convention in promoting and protecting the rights of women worldwide and focused on the Committee's contributions to that goal. The event, which had been very well attended, was highly visible thanks to the participation of the President of the fifty-ninth session of the General Assembly, the

Deputy Secretary-General of the United Nations, three former Chairpersons, namely Ivanka Corti, Salma Khan and Charlotte Abaka, as well as high-level officials of the United Nations system and of civil society. The participation and keynote address by Dame Silvia Cartwright, Governor General of New Zealand and a former member of the Committee, had made the event a truly memorable one. Aida González Martínez, another former Chairperson, had cancelled her participation but her statement was read out at the meeting. Meriem Belmihoub-Zerdani as well as Savitri Goonesekere, a former member of the Committee, also attended the event. The Chairperson indicated that she had written to all States parties inviting them to use the opportunity provided by the anniversary to accelerate the momentum, at the national level, for the full and comprehensive implementation of the Convention. She mentioned in particular the Committee's statement, which called for new initiatives to increase compliance with the Convention.

29. The former Chairperson also reported about her participation, in October 2004, in a technical cooperation mission organized by the Division for the Advancement of Women to support the Government of Sierra Leone in its implementation of the Convention. Dorcas Coker-Appiah, Charlotte Abaka, Unity Dow of the High Court of Botswana and Tiya Maluwa, professor of law from Malawi also participated in the mission. She briefed the Committee about some activities in which she had participated in her personal capacity, including the sixth annual NGO Forum on Human Rights held in Dublin; a conference in Stockholm convened by the Government of Sweden on combating patriarchal violence against women, focusing on violence in the name of honour; and the Economic Commission for Europe Regional Preparatory Meeting for the 10-year review of the Beijing Platform for Action, held in Geneva in December, at which she also served as Vice-Chairperson.

30. In closing, the former Chairperson expressed her appreciation for having had the opportunity to be a member of the Committee for eight years and for having been entrusted with responsibilities of Rapporteur, Vice-Chairperson and Chairperson. She emphasized the importance of contributing to the work of the Committee in fulfilling her mandate as an independent expert. As Chairperson, she had tried to ensure its harmonious and productive work and to represent the Committee well in different forums. She thanked the experts and the Secretariat for the collaboration, strong support and friendship they had provided during her tenure. She emphasized that while visibility was no longer as big an issue for the Convention and the Committee, the importance of the work of the Committee, and the need to maintain the Committee's exemplary competence and integrity, were perhaps now more important than ever before. This was the time when the actual independence of the Committee, as well as the appearance of independence, needed to be even more carefully maintained and protected because the Committee was more relevant and influential. The Optional Protocol as well as the larger number of ratifications required this. Similarly, this was a time when the Committee had to navigate the international human rights system to ensure that it was neither alienated nor simply mainstreamed into invisibility in the fulfilment of its responsibility to effectively promote and protect women's human rights, for which purpose the Convention existed. The Convention's increased popularity and the Committee's increased power brought greater responsibility to all its members.

Chapter IV

Consideration of reports submitted by States parties under article 18 of the Convention

31. At its thirty-second session, the Committee considered the reports of eight States parties: the second periodic report of Algeria (CEDAW/C/DZA/2); the combined second and third periodic reports of Croatia (CEDAW/C/CRO/2-3); the combined second, third, fourth and fifth periodic reports of Gabon (CEDAW/C/GAB/2-5); the combined fourth and fifth periodic reports of Italy (CEDAW/C/ITA/4-5); the combined initial, second, third, fourth and fifth periodic reports of the Lao People's Democratic Republic (CEDAW/C/LAO/1-5); the combined third and fourth periodic reports and the fifth periodic report of Paraguay (CEDAW/C/PAR/3-4 and CEDAW/C/PAR/5 and Corr.1); the combined initial, second and third periodic reports of Samoa (CEDAW/C/WSM/1-3); and the combined fourth and fifth periodic reports of Turkey (CEDAW/C/TUR/4-5 and Corr.1).

32. The Committee prepared concluding comments on each of the reports of States parties considered. The concluding comments of the Committee, preceded by a summary of the introductory presentation by the representatives of the States parties, have been issued as documents (CEDAW/C/DZA/CC/2); (CEDAW/C/CRO/CC/2-3); (CEDAW/C/GAB/CC/2-5); (CEDAW/C/ITA/CC/4-5); (CEDAW/C/LAO/CC/1-5); (CEDAW/C/PAR/CC/3-5); (CEDAW/C/WSM/CC/1-3); and (CEDAW/C/TUR/CC/4-5). These concluding comments will be included in the Committee's annual report to the General Assembly on its thirty-second and thirty-third sessions, to be issued as a supplement of the General Assembly (*Official Records of the General Assembly, Sixtieth Session, Supplement No. 38* (A/60/38)).

Chapter V

Activities carried out under the Optional Protocol to the Convention

33. Article 12 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women provides that the Committee shall include in its annual report under article 21 of the Convention a summary of its activities under the Optional Protocol.

A. Action taken by the Committee in respect of issues arising from article 2 of the Optional Protocol

34. The Committee took action on communication 2/2003 (see annex III to the present report).

B. Action taken by the Committee in respect of issues arising from article 8 of the Optional Protocol

35. In accordance with article 8, paragraph 1, of the Optional Protocol, if the Committee receives reliable information indicating grave or systematic violations by a State party of rights set forth in the Convention, the Committee shall invite that State party to cooperate in the examination of the information and, to this end, to submit observations with regard to the information concerned.

36. In accordance with rule 77 of the Committee's rules of procedure, the Secretary-General shall bring to the attention of the Committee information that is or appears to be submitted for the Committee's consideration under article 8, paragraph 1, of the Optional Protocol.

37. The Committee continued its work under article 8 of the Optional Protocol during the period under review. In accordance with the provisions of rules 80 and 81 of the Committee's rules of procedure, all documents and proceedings of the Committee relating to its functions under article 8 of the Optional Protocol are confidential and all the meetings concerning its proceedings under that article are closed.

38. Pursuant to rule 77 of the Committee's rules of procedure, the Secretary-General brought to the attention of the Committee information that had been submitted for the Committee's consideration under article 8 of the Optional Protocol.

Summary of the activities of the Committee concerning the inquiry on Mexico, and follow-up

39. The Committee reiterated its decision, taken at its thirty-first session, to issue at a future date the substantive findings and recommendations emanating from its inquiry, in accordance with article 8 of the Optional Protocol, in regard to Mexico, together with the State party's observations (see A/59/38, part II, chap. V.B). The Committee issued these findings and recommendations, together with the State party's observations, on 27 January 2005 (CEDAW/C/2005/OP8/Mexico).

40. The Committee recalled its decision requesting the Government of Mexico to submit information, by 1 December 2004, about measures taken in response to the Committee's recommendations submitted to the State party on 23 January 2004. It received preliminary information on 13 December 2004 and additional information on 17 January 2005. It decided to request the Government of Mexico to submit additional information on follow-up given to the Committee's recommendations in a succinct report, of up to 10 pages, by 1 May 2005. The Committee further decided to invite the three NGOs that had submitted the information that led to the Committee's decision to conduct an inquiry under article 8 of the Optional Protocol in regard to Mexico, Equality Now, Casa Amiga and the Mexican Committee for the Defense and Promotion of Human Rights, to provide their views in a succinct report to the Committee, by 1 May 2005, on the current situation concerning the killings and abductions of women in the Ciudad Juárez area of Mexico, and in particular their evaluation of the State party's actions in response to the Committee's findings and recommendations. The Committee decided to consider Mexico's follow-up response, together with any information that might be received from the NGOs, at its thirty-third session, scheduled to take place from 5 to 22 July 2005.

C. Appointment of members of the Working Group on Communications under the Optional Protocol

41. The Committee appointed the following five members to serve on the Working Group on Communications under the Optional Protocol, for a term of two years, until 31 December 2006:

Magalys Arocha Dominguez
Cornelis Flinterman
Krisztina Morvai
Pramila Patten
Anamah Tan

Chapter VI
Ways and means of expediting the work of the Committee

42. The Committee considered agenda item 8, ways and means of expediting the work of the Committee, at its 666th and 683rd meetings, on 10 and 28 January 2005.

Action taken by the Committee under agenda item 8

Members of the pre-session working group for the thirty-third and thirty-fourth sessions

43. The Committee confirmed that the members of the pre-session working group for the thirty-third session would be:

Meriem Belmihoub-Zerdani
Salma Khan
Glenda Simms
Dubravka Šimonović
Maria Regina Tavares da Silva

44. The Committee decided that the members of the pre-session working group for the thirty-fourth session and their alternates would be:

Members

Shanthi Dairiam
Françoise Gaspard
Pramila Patten
Silvia Pimentel
Victoria Popescu

Alternates

Hanna Beate Schöpp-Schilling

(the remaining alternates remain to be determined)

Dates of the thirty-third session, the pre-session working group for the thirty-fourth session and the fifth and sixth sessions of the Working Group on Communications under the Optional Protocol to the Convention

45. In accordance with the draft calendar of conferences and meetings for 2005, the thirty-third session of the Committee will be held from 5 to 22 July 2005. The pre-session working group for the thirty-fourth session will be held from 25 to 29 July 2005. The fifth session of the Working Group on Communications under the Optional Protocol will be held from 31 January to 2 February 2005, and the sixth session from 29 June to 1 July 2005.

Dates of the thirty-fourth session, the pre-session working group for the thirty-fifth session and the seventh session of the Working Group on Communications under the Optional Protocol

46. In accordance with the draft calendar of conferences and meetings for 2006, the thirty-fourth session of the Committee will be held from 16 January to 3 February 2006. The pre-session working group for the thirty-fifth session will be

held from 6 to 10 February 2006. The seventh session of the Working Group on Communications under the Optional Protocol will be held from 9 to 13 January 2006.

Reports to be considered at future sessions of the Committee

47. The Committee decided to consider the following reports at its thirty-third and thirty-fourth sessions:

(a) **Thirty-third session**

Initial reports

Benin
Democratic People's Republic of Korea
Gambia
Lebanon

Periodic reports

Burkina Faso
Guyana
Ireland
Israel

(b) **Thirty-fourth session**

Initial reports

Cambodia
Eritrea
The former Yugoslav Republic of Macedonia
Togo

Periodic reports

Australia
Mali
Thailand
Venezuela (Bolivarian Republic of)

United Nations meetings to be attended by the Chairperson or members of the Committee in 2005

48. The Committee recommended that the Chairperson or an alternate attend the following meetings in 2005:

(a) The forty-ninth session of the Commission on the Status of Women;

(b) The sixty-first session of the Commission on Human Rights;

(c) The seventeenth meeting of persons chairing human rights treaty bodies;

(d) The fourth Inter-Committee Meeting, together with two other members of the Committee;

(e) The sixtieth session of the General Assembly (Third Committee).

Enhancing the Committee's working methods under article 18 of the Convention

Focused concluding comments

49. In its efforts to adopt focused concluding comments on periodic reports that would highlight a limited number of priority areas of concern and recommendations, the Committee decided to include a new standard paragraph as the first paragraph in the section on "principal areas of concern and recommendations". This paragraph may be followed by a paragraph in which the Committee will highlight areas of concern already identified in its previous concluding comments in regard to which the State party, in the Committee's view, has taken insufficient action. These would be briefly reiterated and the State party would be invited to implement previously made recommendations of the Committee. The new paragraphs will read:

> **The Committee notes the State party's obligation for the systematic and continuing implementation of all provisions of the Convention. At the same time, it is the Committee's view that the concerns and recommendations identified in the present concluding comments require the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls on the State party to focus on these areas in its implementation activities and to report on actions taken and results achieved, in its next periodic report. It calls on the State party to submit the present concluding comments to all relevant ministries and Parliament so as to ensure their full implementation.**
>
> The Committee is concerned that the State party has taken inadequate steps to implement the recommendations in regard to some concerns raised in the Committee's previous concluding comments adopted in (Year) (Symbol). In particular, the Committee finds that its concerns about ... (paragraph ...) and ... (paragraph ...) have been insufficiently addressed.
>
> **The Committee reiterates these concerns and recommendations and urges the State party to proceed without delay with their implementation.**

Country task forces

50. The Committee used a country task force for the constructive dialogue with one reporting State (periodic report). It agreed to continue this effort and to establish country task forces for consideration of two periodic reports at its thirty-third session. It agreed that for the time being, it will continue to use this approach on a case-by-case basis, in a flexible manner.

Consideration of implementation of the Convention in the absence of a report

51. The Committee reiterated its incremental strategy to encourage States parties to fulfil their reporting obligations. It also reiterated its decision to consider

implementation of the Convention in the absence of a report only as a measure of last resort and in the presence of a delegation.

52. The Committee recalled its decision, taken at its thirty-first session, to notify two States parties, namely, Cape Verde and Saint Lucia, whose initial reports under article 18 of the Convention are more than 10 years overdue, of its intention to take up implementation of the Convention at the thirty-fifth session (July 2006). These two States parties have been invited to submit all their overdue reports as combined reports by June 2005. They have also been advised that, should their reports not be submitted by the designated time, the Committee intends to proceed with consideration of the implementation of the Convention in the absence of a report.

53. The Committee decided to review the status of long-overdue initial reports again at its thirty-third session, and requested the Secretariat to include relevant information in the pre-session documentation. Based on the information provided, the Committee will invite up to two States parties to submit their reports within a specified time period, for consideration by the Committee.

Follow-up to the recommendations of the third inter-committee meeting and the sixteenth meeting of chairpersons of the human rights treaty bodies

54. The Committee continued its follow-up to the recommendations of the third inter-committee meeting (Geneva, 21 and 22 June 2004) and the sixteenth meeting of chairpersons of the human rights treaty bodies (Geneva, 23-25 June 2004) and, in particular, the proposals on harmonized guidelines on reporting under the international human rights treaties and guidelines for an expanded core document and treaty-specific targeted reports (HRI/MC/2004/3). It considered a discussion paper prepared by three of its members, Victoria Popescu, Hanna Beate Schöpp-Schilling and Heisoo Shin. The Committee finalized its preliminary views that it will be submitting to the fourth inter-committee meeting.

Date of issuance of pre-session documentation

55. The Committee took note of the guidance by the General Assembly in regard to the issuance of pre-session documentation, the so-called 10-week and 6-week rules. In this regard, the Committee stressed that it would rather receive the most up-to-date information possible in reports prepared by the Secretary-General rather than receive these reports six weeks prior to the session. It therefore agreed to waive the 10-week rule for submission of certain documents, in particular those contained in documents CEDAW/C/YEAR/SESSION/2, 3 and 4 and addenda, as well as confidential documentation issued in regard to the Optional Protocol to the Convention. Such documentation should be available in all languages one week prior to the opening of the session.

Extension of the Committee's meeting time

56. The Committee expressed its disappointment at the lack of action taken by the General Assembly at its fifty-ninth session in regard to the Committee's request to put in place short-term measures and a long-term solution that would allow the Committee to implement its responsibilities under the Convention and the Optional Protocol in an effective and timely manner. It reiterated the urgent need to find such a solution in line with its decision 31/I. The Committee requested the Secretariat to include in the Committee's pre-session documentation detailed information on all

possible options for extension of the Committee's meeting time, including extension of the current sessions and the holding of additional annual sessions from 2006. The Committee decided to consider these options at its thirty-third session with a view to submitting a request to the General Assembly for action at its sixtieth session.

Twenty-fifth anniversary of the Committee

57. The year 2007 will mark twenty-five years since the Committee held its first session. The Committee held a preliminary discussion on the proposal to edit a collection of brief essays by former and current members on their experience related to their work on the Committee and the impact of the Convention. Members agreed to consider this proposal with a view to discussing it further and to making a decision at the thirty-third session.

Interaction with national human rights institutions

58. The Committee expressed its interest in establishing interaction with national human rights institutions and agreed to discuss the modalities for such interaction at the thirty-third session. Representatives of national human rights institutions wishing to present information to the Committee at its thirty-third session would be able to do so during the meeting between the Committee and representatives of NGOs.

Chapter VII
Implementation of article 21 of the Convention

59. The Committee considered agenda item 7, on the implementation of article 21 of the Convention, at its 666th and 683rd meetings, on 10 and 28 January 2005 and in closed meetings.

Action taken by the Committee under agenda item 7

General recommendation 26 on article 2 of the Convention

60. The Committee's intersessional task force consisting of Ms. Dairiam, Mr. Flinterman, Ms. Gnacadja, Ms. Morvai, Ms. Pimentel and Ms. Šimonović as core members will continue to work on elements for a general recommendation on article 2. All experts were urged to send contributions to the core members well before 1 May 2005. The Committee agreed to discuss a first draft at its thirty-third session.

Work on general recommendations

61. The Committee reviewed its work programme for the preparation of general recommendations. It was agreed that while work on a general recommendation on article 2 had priority, experts who had volunteered to work on particular topics should continue to work on background papers.

62. The Committee reviewed and updated the list of proposed general recommendations and experts who had volunteered to work on them:

Article 2: Ms. Dairiam, Mr. Flinterman, Ms. Gnacadja, Ms. Morvai, Ms. Pimentel and Ms. Šimonović.

Migrant women: Ms. Arocha, Ms. Dairiam, Ms. Khan, Ms. Manalo and Ms. Shin.

Gender, race and ethnicity: Mr. Flinterman, Ms. Patten, Ms. Popescu, Ms. Simms, Ms. Šimonović and Ms. Tavares da Silva.

Reservations: Ms. Coker-Appiah and Ms. Schöpp-Schilling.

Role of non-governmental organizations, including in the process of reporting: Ms. Coker-Appiah and Ms. Schöpp-Schilling.

Article 6: Ms. Gaspard and Ms. Morvai.

The situation of women in special circumstances:

Women with disabilities:

Older women:

The girl child:

Article 3:

Refugee women.

Chapter VIII
Provisional agenda for the thirty-third session

63. The Committee considered the draft provisional agenda for its thirty-third session at its 683rd meeting (see CEDAW/C/SR.683). The Committee decided to approve the following provisional agenda for the session:

1. Opening of the session.
2. Adoption of the agenda and organization of work.
3. Report of the Chairperson on activities undertaken between the thirty-second and thirty-third sessions of the Committee.
4. Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women.
5. Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women.
6. Ways and means of expediting the work of the Committee.
7. Activities of the Committee under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
8. Provisional agenda for the thirty-fourth session.
9. Adoption of the report of the Committee on its thirty-third session.

Chapter IX
Adoption of the report

64. The Committee considered the draft report on its thirty-second session (CEDAW/C/2005/I/CRP.3 and Add.1-9) at its 683rd meeting (see CEDAW/C/SR.683) and adopted it, as orally revised, during the discussion.

Annex I

Statement of the Committee on the Elimination of Discrimination against Women on the occasion of the 10-year review and appraisal of the Beijing Declaration and Platform for Action

1. The Committee on the Elimination of Discrimination against Women welcomes the comprehensive 10-year review and appraisal of the Beijing Declaration and Platform for Action undertaken by States Members of the United Nations during the forty-ninth session of the Commission on the Status of Women, held from 28 February to 11 March 2005. The Committee commends the efforts undertaken by Member States in the implementation of the Beijing Declaration and Platform for Action and the outcome document of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century". The Committee stresses the need to reaffirm these goals and commitments so as to sustain and enhance the gains made in the advancement of women and gender equality, and to address new and emerging challenges.

2. In 2004, the Committee commemorated the twenty-fifth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women. On the occasion of the Beijing review and appraisal, it wishes to draw the attention of the Member States to its statement issued in October 2004 to mark that anniversary (CEDAW/C/2005/I/4, annex III).

3. The Committee notes that 179 States are now parties to the Convention on the Elimination of All Forms of Discrimination against Women, representing an increase of 35 ratifications in the 10 years since the Fourth World Conference on Women. While this represents much welcome progress, the Committee regrets that the goal of universal ratification by 2000 set forth in the Platform for Action has not been achieved: 12 Member States continue to consider joining this most comprehensive treaty on the human rights of women. The Committee is especially pleased that the commitment of Member States to providing for a right to petition under the Convention was realized in 1999 when the General Assembly adopted and opened for ratification and accession the Optional Protocol to the Convention providing for the right to petition as well as an inquiry procedure. The Committee congratulates those 70 States parties to the Convention that have so far adhered to the instrument, thus providing women within their jurisdictions with this international means of redress for alleged violations of their rights protected under the Convention. The Committee has already issued views and findings under both procedures. The Committee remains most concerned about the significant number of reservations to the Convention, many of which are broad-based and must be considered to be incompatible with the object and purpose of the Convention. The Committee congratulates all those States that have withdrawn or modified their reservations to the Convention since the Fourth World Conference on Women, as called for in the Platform for Action, and urges all those States that continue to maintain reservations to work towards their withdrawal.

4. The Committee recalls that the 12 critical areas of concern of the Platform for Action and the provisions of the Convention mutually reinforce each other. It notes

that the Platform for Action gave unprecedented attention to the human rights of women and to the Convention as the primary instrument for the promotion of equality between women and men and the elimination of all forms of discrimination against women. The entire Platform for Action will have achieved an overall human rights approach when each critical area of concern is implemented within the Convention's framework of substantive equality that ensures de jure and de facto equality. The Platform for Action highlights women's rights in many different contexts and it outlines, under its critical areas of concern, concrete and detailed actions including legislation, policy and programme measures, to be taken by Governments and other actors for the promotion of gender equality and the elimination of discrimination against women.

5. One of the Platform for Action's critical areas of concern is specifically devoted to the realization of the human rights of women, including through the full implementation of the Convention. The Committee notes that, in addition, the Platform for Action explicitly covers violence against women, an issue that the Committee addressed comprehensively in its general recommendation 19 (1992). The Convention prohibits discrimination against women in the political, economic, social, cultural, civil or any other field and obligates States parties to take all appropriate measures to ensure the full development and advancement of women. During the constructive dialogue with States parties when presenting their national reports, the Committee encourages the States parties to include a gender and human rights perspective in their development cooperation to support the realization of the principle of equality between women and men in all parts of the world. The Committee also notes the importance of allocating resources according to the internationally agreed target of 0.7 per cent of the gross national product of developed countries for overall official development assistance, as urged in the Platform for Action.

6. In accordance with the recommendation of the Platform for Action, the Committee now regularly takes the Platform for Action into account when considering reports submitted by States parties to the Convention. Following the Fourth World Conference on Women, the Committee revised its guidelines for preparation of reports by States parties, inviting them to take into account the 12 critical areas of concern of the Platform for Action. In doing so, the Committee noted that those areas of concern are compatible with the articles of the Convention and are therefore within its mandate. The Committee further revised those guidelines in 2002, emphasizing that initial and subsequent periodic reports should contain information on the implementation of the actions recommended in the Platform for Action as well as in the outcome document of the twenty-third special session of the General Assembly. States parties generally refer to their activities in relation to the Platform for Action either in their reports or in their presentations to and constructive dialogue with the Committee. The Committee, in all its concluding comments, consistently requests States parties to widely disseminate the Platform for Action and the outcome of the twenty-third special session of the Assembly, together with the Convention, the Optional Protocol thereto and the Committee's general recommendations.

7. The Committee draws attention to the significant synergies in substantive content between the Convention and the Beijing Platform for Action. For instance, the Convention deals with women's right to equality in the field of education in its article 9. In the Platform for Action, it is noted that education is a human right and

that the implementation of the actions to be taken by Governments and other stakeholders as set out in the Platform for Action directly contributes to a State party's fulfilment of its obligations under the Convention. Likewise, article 7 of the Convention, on women's right to equality in political and public life, is complemented by the Platform for Action's critical area of concern on inequality between women and men in the sharing of power and decision-making. Similar linkages exist between other provisions of the Convention and the critical areas of concern in the Platform for Action. The Platform for Action gives detailed further guidance on the types of actions Member States should implement and which, in the Committee's view, also enhance compliance with the Convention. When States parties put in place national action plans or strategies with time-bound targets and benchmarks for monitoring, as called for in the Platform for Action, they also contribute to the practical realization of the principle of equality of women and men in respect of the enjoyment of their human rights and fundamental freedoms, for which States parties are responsible in accordance with article 2 (a) of the Convention.

8. The Convention and the Platform for Action comprise, respectively, legally binding obligations and policy commitments towards the elimination of all forms of discrimination against women and the realization of equality of women and men. National machineries for the advancement of women as the central units within government for the promotion of gender equality should be entrusted with the coordination and monitoring of the implementation of both the Convention and the Platform for Action so as to ensure compliance with the international legal obligations and policy commitments of States.

9. The Committee calls upon all States parties and States Members of the United Nations, civil society and women's and human rights organizations to further intensify their efforts to implement fully both the Convention, as a legally binding human rights instrument, and the Platform for Action, as a comprehensive agenda for gender equality, and to use both in their advocacy in a complementary and mutually reinforcing manner.

Annex II

Statement by the Committee on the Elimination of Discrimination against Women in regard to the tsunami disaster that occurred in South-East Asia on 26 December 2004

1. The Committee on the Elimination of Discrimination against Women shares the expressions of support and solidarity that have been offered by so many people around the world to all those affected by the devastating tsunami in South-East Asia that occurred on 26 December 2004.

2. The unprecedented scale of the tsunami disaster impacts on all survivors, women and men, having caused loss of life, injuries, separation from and loss of loved ones, extreme trauma, loss of security, including basic necessities such as shelter, food and water and sanitation, and livelihoods. In the wake of the tsunami, the gender-specific needs and vulnerabilities of women and girls must be identified and addressed in all responses to the humanitarian and recovery needs. There are gender perspectives to be taken into account in relation to impacts on both a long and a short-term basis, including in relation to health, security and livelihoods.

3. Proactive steps must be taken to ensure that women and girls living in the affected communities as well as local women's groups and women community leaders and government officials are full, equal and effective participants in all relief, rehabilitation and reconstruction efforts, including in the distribution of assistance of all kinds.

4. Particular attention must be paid to identifying and responding to specific vulnerabilities of women and girls in situations of disaster, in particular with regard to gender-based violence, sexual abuse and trafficking. As the protection of the safety and dignity of survivors is among the priorities of relief work, specific attention must be paid to the prevention of gender-based violence and abuse of women and girls. All those who abuse women and girls in this situation of particular vulnerability must be brought to justice and severely punished.

5. The Committee calls upon all those who provide assistance and relief and contribute to the reconstruction of the devastated communities to respond fully to the gender-specific needs of women and girls. The Committee urges that the ongoing efforts be used as a window of opportunity to ensure that the promotion of gender equality is a central pillar in the reconstruction and development of the affected communities and that a gender perspective is integrated in all humanitarian efforts. It also suggests that an appropriate intergovernmental body of the United Nations consider preparing a comprehensive action-oriented resolution on the gender perspectives of disaster relief and humanitarian assistance, following the example of Security Council resolution 1325 (2000) on women and peace and security.

Annex III

Views of the Committee on the Elimination of Discrimination against Women under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

Communication No.: 2/2003, Ms. A. T. v. Hungary (Views adopted on 26 January 2005, thirty-second session)

Submitted by: Ms. A. T.

Alleged victim: The author

State party: Hungary

Date of communication: 10 October 2003 (initial submission)

The Committee on the Elimination of Discrimination against Women, established under article 17 of the Convention on the Elimination of All Forms of Discrimination against Women,

Meeting on 26 January 2005,

Having concluded its consideration of communication No. 2/2003, submitted to the Committee on the Elimination of Discrimination against Women by Ms. A. T. under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

Views under article 7, paragraph 3, of the Optional Protocol

1.1 The author of the communication dated 10 October 2003, with supplementary information dated 2 January 2004, is Ms. A. T., a Hungarian national born on 10 October 1968. She claims to be a victim of a violation by Hungary of articles 2 (a), (b) and (e), 5 (a) and 16 of the Convention on the Elimination of All Forms of Discrimination against Women. The author is representing herself. The Convention and its Optional Protocol entered into force in the State party on 3 September 1981 and 22 March 2001, respectively.

1.2 The author urgently requested effective interim measures of protection in accordance with article 5, paragraph 1, of the Optional Protocol, at the same time that she submitted her communication, because she feared for her life.

The facts as presented

2.1 The author states that for the past four years she has been subjected to regular severe domestic violence and serious threats by her common law husband, L. F., father of her two children, one of whom is severely brain-damaged. Although L. F. allegedly possesses a firearm and has threatened to kill the author and rape the

children, the author has not gone to a shelter, reportedly because no shelter in the country is equipped to take in a fully disabled child together with his mother and sister. The author also states that there are currently no protection orders or restraining orders available under Hungarian law.

2.2 In March 1999, L. F. moved out of the family apartment. His subsequent visits allegedly typically included battering and/or loud shouting, aggravated by his being in a drunken state. In March 2000, L. F. reportedly moved in with a new female partner and left the family home, taking most of the furniture and household items with him. The author claims that he did not pay child support for three years, which forced her to claim the support by going to the court and to the police, and that he has used this form of financial abuse as a violent tactic in addition to continuing to threaten her physically. Hoping to protect herself and the children, the author states that she changed the lock on the door of the family's apartment on 11 March 2000. On 14 and 26 March 2000, L. F. filled the lock with glue and on 28 March 2000, he kicked in a part of the door when the author refused to allow him to enter the apartment. The author further states that, on 27 July 2001, L. F. broke into the apartment using violence.

2.3 L. F. is said to have battered the author severely on several occasions, beginning in March 1998. Since then, 10 medical certificates have been issued in connection with separate incidents of severe physical violence, even after L. F. left the family residence, which, the author submits, constitute a continuum of violence. The most recent incident took place on 27 July 2001 when L. F. broke into the apartment and subjected the author to a severe beating, which necessitated her hospitalization.

2.4 The author states that there have been civil proceedings regarding L. F.'s access to the family's residence, a 2 and a half room apartment (of 54 by 56 square metres) jointly owned by L. F. and the author. Decisions by the court of the first instance, the Pest Central District Court (*Pesti Központi Kerületi Bíróság*), were rendered on 9 March 2001 and 13 September 2002 (supplementary decision). On 4 September 2003, the Budapest Regional Court (*Fővárosi Bíróság*) issued a final decision authorizing L. F. to return and use the apartment. The judges reportedly based their decision on the following grounds: (a) lack of substantiation of the claim that L. F. regularly battered the author; and (b) that L. F.'s right to the property, including possession, could not be restricted. Since that date, and on the basis of the earlier attacks and verbal threats by her former partner, the author claims that her physical integrity, physical and mental health and life have been at serious risk and that she lives in constant fear. The author reportedly submitted to the Supreme Court a petition for review of the 4 September 2003 decision, which was pending at the time of her submission of supplementary information to the Committee on 2 January 2004.

2.5 The author states that she also initiated civil proceedings regarding division of the property, which have been suspended. She claims that L. F. refused her offer to be compensated for half of the value of the apartment and turn over ownership to her. In these proceedings the author reportedly submitted a motion for injunctive relief (for her exclusive right to use the apartment), which was rejected on 25 July 2000.

2.6 The author states that there have been two ongoing criminal procedures against L. F., one that began in 1999 at the Pest Central District Court (*Pesti Központi*

Kerületi Bíróság) concerning two incidents of battery and assault causing her bodily harm and the second that began in July 2001 concerning an incident of battery and assault that resulted in her being hospitalized for a week with a serious kidney injury. In her submission of 2 January 2004, the author states that there would be a trial on 9 January 2004. Reportedly, the latter procedure was initiated by the hospital ex officio. The author further states that L. F. has not been detained at any time in this connection and that no action has been taken by the Hungarian authorities to protect the author from him. The author claims that, as a victim, she has not been privy to the court documents and, that, therefore, she cannot submit them to the Committee.

2.7 The author also submits that she has requested assistance in writing, in person and by phone, from the local child protection authorities, but that her requests have been to no avail since the authorities allegedly feel unable to do anything in such situations.

The Claim

3.1 The author alleges that she is a victim of violations by Hungary of articles 2 (a), (b) and (e), 5 (a) and 16 of the Convention on the Elimination of All Forms of Discrimination against Women for its failure to provide effective protection from her former common law husband. She claims that the State party passively neglected its "positive" obligations under the Convention and supported the continuation of a situation of domestic violence against her.

3.2 She claims that the irrationally lengthy criminal procedures against L. F., the lack of protection orders or restraining orders under current Hungarian law and the fact that L. F. has not spent any time in custody constitute violations of her rights under the Convention as well as violations of general recommendation 19 of the Committee. She maintains that these criminal procedures can hardly be considered effective and/or immediate protection.

3.3 The author is seeking justice for herself and her children, including fair compensation, for suffering and for the violation of the letter and spirit of the Convention by the State party.

3.4 The author is also seeking the Committee's intervention into the intolerable situation, which affects many women from all segments of Hungarian society. In particular, she calls for the (a) introduction of effective and immediate protection for victims of domestic violence into the legal system, (b) provision of training programmes on gender-sensitivity, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol, including for judges, prosecutors, police and practising lawyers, and (c) provision of free legal aid to victims of gender-based violence, including domestic violence.

3.5 As to the admissibility of the communication, the author maintains that she has exhausted all available domestic remedies. She refers, however, to a pending petition for review that she submitted to the Supreme Court in respect of the decision of 4 September 2003. The author describes this remedy as an extraordinary remedy and one which is only available in cases of a violation of the law by lower courts. Such cases reportedly take some six months to be resolved. The author believes that it is very unlikely that the Supreme Court will find a violation of the law because Hungarian courts allegedly do not consider the Convention to be a law

that is to be applied by them. She submits that this should not mean that she has failed to exhaust domestic remedies for the purposes of the Optional Protocol.

3.6 The author contends that, although most of the incidents complained of took place prior to March 2001 when the Optional Protocol entered into force in Hungary, they constitute elements of a clear continuum of regular domestic violence and that her life continues to be in danger. She alleges that one serious violent act took place in July 2001, that is after the Optional Protocol came into force in the country. She also claims that Hungary has been bound by the Convention since becoming party to it in 1982. The author further argues that Hungary has in effect assisted in the continuation of violence through lengthy proceedings, the failure to take protective measures, including timely conviction of the perpetrator and the issuance of a restraining order, and the court decision of 4 September 2003.

Request for interim measures of protection in accordance with article 5, paragraph 1, of the Optional Protocol

4.1 On 10 October 2003, with her initial submission, the author also urgently requested effective interim measures, as may be necessary, in accordance with article 5, paragraph 1, of the Optional Protocol in order to avoid possible irreparable damage to her person, that is to save her life, which she feels is threatened by her violent former partner.

4.2 On 20 October 2003 (with a corrigendum on 17 November 2003), a note verbale was sent to the State party for its urgent consideration, requesting the State party to provide immediate, appropriate and concrete preventive interim measures of protection to the author, as may be necessary, in order to avoid irreparable damage to her person. The State party was informed that, as laid down in article 5, paragraph 2, of the Optional Protocol, this request did not imply a determination on admissibility or on the merits of the communication. The Committee invited the State party to provide information no later than 20 December 2003 of the type of measures it had taken to give effect to the Committee's request under article 5, paragraph 1, of the Optional Protocol.

4.3 In her supplementary submission of 2 January 2004, the author states that, apart from being interrogated by the local police at the police station in her vicinity on the day before Christmas, she had not heard from any authority concerning the ways and means through which they would provide her with immediate and effective protection in accordance with the Committee's request.

4.4 By submission of 20 April 2004, the State party informed the Committee that the Governmental Office for Equal Opportunities (hereinafter "the Office") established contact with the author in January 2004 in order to inquire about her situation. It turned out that at that time, the author had had no legal representative in the proceedings, and thus the Office retained a lawyer with professional experience and practice in cases of domestic violence for her.

4.5 The State party further informed the Committee that on 26 January 2004, the Office set up contact with the competent family and child-care service at the Ferencváros local government in order to halt the domestic violations against the author and her children. The State party stated that urgent measures were enforced for securing the safety and the personal development of the children.

4.6 On 9 February 2004, the Office sent a letter to the notary of Ferencváros local government containing a detailed description of the author's and her children's situation. The Office requested the notary to convene a so-called "case-conference" with the aim of determining the further necessary measures for promoting effective protection of the author and her children. As at 20 April 2004, the Office had not had a reply to that letter.

4.7 On 13 July 2004, on behalf of the Working Group on Communications, a note verbale with a follow-up to the Committee's request of 20 October and 17 November 2003 was sent to the State party, conveying the Working Group's regret that the State party had furnished little information on the interim measures taken to avoid irreparable damage to the author. The Working Group requested that A. T. be immediately offered a safe place for her and her children to live and that the State party ensure that the author receive adequate financial assistance, if needed. The State party was invited to inform the Working Group as soon as possible of any concrete action taken in response to the request.

4.8 By its note of 27 August 2004, the State party repeated that it had established contact with the author, retained a lawyer for her in the civil proceedings and established contact with the competent notary and child welfare services.

State party's submission on admissibility and merits

5.1 By its submission of 20 April 2004, the State party gave an explanation of the civil proceedings to which reference is made by the author, stating that in May 2000 L. F. instituted trespass proceedings against the author because she had changed the door-lock of their common flat and prevented him from gaining access to his possessions. The notary of Ferencváros local government ordered the author to cease interfering with L. F.'s property rights. She applied to the Pest Central District Court (*Pesti Központi Kerületi Bíróság*) in order to set aside this decision and to establish her entitlement to use the flat. The District Court dismissed the author's claims on grounds that L. F. was entitled to the use of his property and that the author could have been expected to try to settle the dispute by lawful means, instead of the arbitrary conduct she had resorted to. In a supplementary judgement of 13 September 2002, the District Court established that the author was entitled to use the flat, but ruled that it was not competent to establish whether she was entitled to the exclusive use of the flat since she had not submitted a request to that effect. The judgement of 4 September 2003 of the Budapest Regional Court (*Fővárosi Bíróság*) confirmed the District Court's decision. The author submitted a petition for review by the Supreme Court on 8 December 2003 and these proceedings were still pending as at 20 April 2004, the date of the submission of the State party's observations.

5.2 On 2 May 2000, the author brought an action against L. F. before the Pest Central District Court requesting separation of their common property. On 25 July 2000, the District Court dismissed the author's request for interim measures on the use and possession of the common flat on grounds that the other set of proceedings concerning that issue (the "trespass" proceedings) were pending and that it was not competent to decide the question in the proceedings concerning the division of the property. The State party contends that the progress of the proceedings was considerably hindered by the author's lack of cooperation with her then counsel and failure to submit the requested documents. Furthermore, it turned out that the

couple's ownership of the flat had not been registered and that civil proceedings had been suspended in this connection.

5.3 The State party states that several sets of criminal proceedings were instituted against L. F. on charges of assault and battery. On 3 October 2001 the Pest Central District Court convicted L. F. on one count of assault committed on 22 April 1999 and sentenced him to a fine of 60,000 Hungarian forints (HUF). The District Court acquitted L. F. on another count of assault allegedly committed on 19 January 2000 for lack of sufficient evidence. The public prosecutor's office appealed but the case file was lost on its way to the Budapest Regional Court. On 29 April 2003, the Budapest Regional Court ordered a new trial. The proceedings were resumed before the Pest Central District Court and were joined to another set of criminal proceedings pending against L. F. before the same court.

5.4 A proceeding was brought against L. F. on charges of an assault allegedly committed on 27 July 2001 causing bruises to the author's kidneys. Though the investigations were twice discontinued by the police (on 6 December 2001 and 4 December 2002) they were resumed by order of the public prosecutor's office. Witnesses and experts were heard and a bill of indictment was brought against L. F. on 27 August 2003 before the Pest Central District Court.

5.5 The State party states that the two sets of criminal proceedings (that is the criminal proceedings regarding the separate incidents of assault allegedly committed on 19 January 2000 and 21 July 2001) have been joined. The Pest Central District Court has held hearings on 5 November 2003, 9 January and 13 February 2004. The next hearing is scheduled for 21 April 2004.

5.6 The State party maintains that although the author did not make effective use of the domestic remedies available to her, and although some domestic proceedings are still pending, the State party does not wish to raise any preliminary objections as to the admissibility of the communication. At the same time, the State party admits that these remedies were not capable of providing immediate protection to the author from ill-treatment by her former partner.

5.7 Having realized that the system of remedies against domestic violence is incomplete in Hungarian law and that the effectiveness of the existing procedures is not sufficient, the State party states that it has instituted a comprehensive action programme against domestic violence in 2003. On 16 April 2003, the Hungarian Parliament adopted a resolution on the national strategy for the prevention and effective treatment of violence within the family, setting forth a number of legislative and other actions to be taken in the field by the State party. These actions include: introducing a restraining order into legislation; ensuring that proceedings before the Courts or other authorities in domestic violence cases are given priority; reinforcing existing witness protection rules and introducing new rules aimed at ensuring adequate legal protection for the personal security of victims of violence within the family; elaborating clear protocols for the police, childcare organs and social and medical institutions; extending and modernizing the network of shelters and setting up victim protection crisis centres; providing free legal aid in certain circumstances; working out a complex nationwide action programme to eliminate violence within the family that applies sanctions and protective measures; training of professionals; ensuring data collection on violence within the family; requesting the judiciary to organize training for judges and to find a way to ensure that cases relating to violence within the family are given priority; and launching a nationwide

campaign to address indifference to violence within the family and the perception of domestic violence as a private matter and to raise awareness of State, municipal and social organs and journalists. In a resolution of 16 April 2003 by the Hungarian Parliament, a request with due regard to the separation of powers has been also put forward to the National Council of the Judiciary to organize training for judges and to find a way to ensure that cases relating to violence within the family are given priority. In the resolution, reference is made, inter alia, to the Convention on the Elimination of All Forms of Discrimination against Women, the concluding comments of the Committee on the combined fourth and fifth periodic report of Hungary adopted at its exceptional session in August 2002 and the Declaration on the Elimination of Violence against Women.

5.8 In a second resolution, the Parliament has also stated that prevention of violence within the family is a high priority in the national strategy of crime prevention and describes the tasks of various actors of the State and of the society. These include: prompt and effective intervention by the police and other investigating authorities; medical treatment of pathologically aggressive persons and application of protective measures for those who live in their environment; operation of 24-hour "SOS" lines; organization of rehabilitation programmes; organization of sport and leisure time activities for youth and children of violence-prone families; integration of non-violent conflict resolution techniques and family-life education into the public educational system; establishment and operation of crisis intervention houses as well as mother and child care centres and support for the accreditation of civil organizations by municipalities; and launching of a media campaign against violence within the family.

5.9 The State party further states that it has implemented various measures to eliminate domestic violence. These measures include registration of criminal proceedings (Robotzsaru) in a manner that will facilitate the identification of trends in offences related to violence within the family, as well as the collection of data, the expanded operation of family protection services by 1 July 2005, including units for ill-treated women without children in Budapest, which is to be followed by the establishment of seven regional centres. The first shelter is planned to be set up in 2004. The Government has prepared a draft law, which will enter into force on 1 July 2005, that provides for a new protective remedy for victims of domestic violence, namely the issuance of a temporary restraining order by the police and a restraining order by the Courts, accompanied by fines if intentionally disregarded, and has decided to improve the support services available to such victims.

5.10 Additionally, the State party states that special emphasis has been put on the handling of cases of domestic violence by the police. The State party observes that the efforts made in this field have already brought about significant results which were summed up by the National Headquarters of the Police in a press communication in December 2003. Non-governmental organizations have also been involved in the elaboration of the governmental policy to combat domestic violence.

The author's comments on the State party's observations on admissibility and merits

6.1 By her submission of 23 June 2004, the author states that, in spite of promises, the only step that has been taken under the Decree/Decision of Parliament on the Prevention of, and Response to Domestic Violence is the entry into force of the new protocol of the police, who now respond to domestic violence cases. She states that

the new protocol is still not in line with the Convention and that batterers are not taken into custody, as this would be considered a violation of their human rights. Instead, according to the media, the police mostly mediate on the spot.

6.2 The author further states that the parliamentary debate on the draft law on restraining orders has been postponed until the autumn. Resistance to change is said to be strong and decision-makers allegedly still do not fully understand why they should interfere in what they consider to be the private affairs of families. The author suggests that a timely decision in her case may help decision-makers understand that the effective prevention of, and response to domestic violence are not only demands of victims and "radical" non-governmental organizations but also of the international human rights community.

6.3 The author reports that her situation has not changed and she still lives in constant fear as regards her former partner. From time to time L. F. has harassed her and threatened to move back into the apartment.

6.4 The author submits that in the minutes of the official case conference of 9 May 2004 of the local child protection authority regarding her case, it is stated that it cannot put an end to her threatening situation using official measures. It recommends that she continue to ask for help from the police, medical documentation of injuries and help from her extended family as well as to keep the local authority informed. The child protection authority also reportedly states that it would summon L. F. and give him a warning in the event that the battering continues.

6.5 As at 23 June 2004, according to the author, the criminal proceedings against L. F. were still ongoing. A hearing scheduled for 21 April was postponed to 7 May and, as the judge was reportedly too busy to hear the case, the criminal proceedings were again postponed until 25 June 2004. The author believes that, whatever the outcome, the criminal proceedings have been so lengthy and her safety so severely neglected that she has not received the timely and effective protection and the remedy to which she in entitled under the Convention and general recommendation 19 of the Committee.

6.6 The author refers to the civil proceedings, in particular to the petition for review by the Supreme Court, which she considers to be an extraordinary remedy but submitted nonetheless. She states that, in response to the Committee's intervention, the State party covered the legal costs of supplementing her petition with additional arguments.

6.7 On 23 March 2004, the Supreme Court dismissed the petition, arguing, inter alia, that the jurisprudence is established with regard to the legal issue raised in the petition.

6.8 The author refutes the State party's argument that she did not submit a request for the exclusive use of the apartment. The court of the second instance, the Budapest Regional Court (*Fővárosi Bíróság*), ordered the court of the first instance, the Pest Central District Court (*Pesti Központi Kerületi Bíróság*), to re-try the case, namely because it had failed to decide on the merits of the request. She believes that it is clear from the context and from her court documents, including the decisions, that she had requested sole possession of the apartment to avoid a continuation of the violence. However, she states that under the established law and

jurisprudence in the State party, battered individuals have no right to the exclusive use of the jointly-owned/leased apartments on grounds of domestic violence.

6.9 The author requests that the Committee declare her communication admissible without delay and decide on the merits that the rights under the Convention have been violated by the State party. She requests that the Committee recommend to the State party to urgently introduce effective laws and measures towards the prevention of and effective response to domestic violence, both in her specific case and in general. The author furthermore seeks compensation for long years of suffering that have been directly related to the severe and serious violations of the Convention. The author believes that the most effective way would be to provide her with a safe home, where she could live in safety and peace with her children, without constant fear of her batterer's "lawful" return and/or substantial financial compensation.

6.10 By her submission of 30 June 2004, the author informs the Committee that the criminal proceedings against L. F have been postponed until 1 October 2004 in order to hear the testimony of a policeman because the judge thinks that there is a slight discrepancy between two police reports.

6.11 By her submission of 19 October 2004, the author informs the Committee that the Pest Central District Court (*Pesti Központi Kerületi Bíróság*) convicted L. F. of two counts of causing grievous bodily harm to her and fined him for the equivalent of approximately $365 United States dollars.

Supplementary observations of the State party

7.1 By note dated 27 August 2004, the State party argues that, although all tasks that the Decree/Decision of Parliament on the Prevention of and Response to Domestic Violence prescribe have not yet been completely implemented, some positive steps, including new norms in the field of crime prevention and Act LXXX (2003) on the conditions under which legal assistance is given to those in need, have been taken. These documents are said to provide an opportunity to establish a national network of comprehensive legal and social support for future victims of domestic violence.

7.2 The State party confirms that consideration of the Draft Act on Restraining Orders that applies to cases of violence within the family has been postponed to the autumn session of Parliament.

7.3 The State party admits that the experience of the Office and the information it has shows that domestic violence cases as such do not enjoy high priority in court proceedings.

7.4 Based on the experience of the Office both in the present case and in general, it is conceded that the legal and institutional system in Hungary is not ready yet to ensure the internationally expected, coordinated, comprehensive and effective protection and support for the victims of domestic violence.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 In accordance with rule 64 of its rules of procedure, the Committee shall decide whether the communication is admissible or inadmissible under the Optional

Protocol to the Convention. Pursuant to rule 72, paragraph 4, of its rules of procedure, it shall do so before considering the merits of the communication.

8.2 The Committee has ascertained that the matter has not already been or is being examined under another procedure of international investigation or settlement.

8.3 With regard to article 4, paragraph 1, of the Optional Protocol, the Committee observes that the State party does not wish to raise any preliminary objections as to the admissibility of the communication and furthermore concedes that the currently existing remedies in Hungary have not been capable of providing immediate protection to the author from ill-treatment from L. F. The Committee agrees with this assessment and considers that it is not precluded by article 4, paragraph 1, from considering the communication.

8.4 The Committee, nevertheless, wishes to make some observations as to the State party's comment in its submission of 20 April 2004 that some domestic proceedings are still pending. In the civil matter of L. F.'s access to the family's apartment, according to the author's submission of 23 June 2004, the petition for review by the Supreme Court was dismissed on 23 March 2004. The civil matter on the distribution of the common property, on the other hand, has been suspended over the issue of registration for an undisclosed period of time. The Committee considers, however, that the eventual outcome of this proceeding is not likely to bring effective relief vis-à-vis the current life-threatening violation of the Convention of which the author has complained. In addition, the Committee notes that two sets of criminal proceedings against L. F. on charges of assault and battery allegedly committed on 19 January 2000 and 21 July 2001 were joined and, according to the author, were decided on 1 October 2004 by convicting L. F. and imposing a fine equivalent to approximately $365. The Committee has not been informed as to whether the conviction and/or sentence may or will be appealed. Nonetheless, the Committee is of the view that such a delay of over three years from the dates of the incidents in question would amount to an unreasonably prolonged delay within the meaning of article 4, paragraph 1, of the Optional Protocol, particularly considering that the author has been at risk of irreparable harm and threats to her life during that period. Additionally, the Committee takes account of the fact that she had no possibility of obtaining temporary protection while criminal proceedings were in progress and that the defendant had at no time been detained.

8.5 As to the facts that are the subject of the communication, the Committee observes that the author points out that most of the incidents complained of took place prior to March 2001 when the Optional Protocol entered into force in Hungary. She argues, however, that the 10 incidents of severe physical violence that are medically documented and which are part of an allegedly larger number constitute elements of a clear continuum of regular domestic violence and that her life was still in danger, as documented by the battering which took place 27 July 2001, that is after the Optional Protocol came into force in Hungary. The Committee is persuaded that it is competent ratione temporis to consider the communication in its entirety, because the facts that are the subject of the communication cover the alleged lack of protection/alleged culpable inaction on the part of the State party for the series of severe incidents of battering and threats of further violence that has uninterruptedly characterized the period beginning in 1998 to the present.

8.6 The Committee has no reason to find the communication inadmissible on any other grounds and thus finds the communication admissible.

Consideration of the merits

9.1 The Committee has considered the present communication in the light of all the information made available to it by the author and by the State party, as provided in article 7, paragraph 1, of the Optional Protocol.

9.2 The Committee recalls its general recommendation No. 19 on violence against women, which states that "... [T]he definition of discrimination includes gender-based violence" and that "[G]ender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence". Furthermore, the general recommendation addresses the question of whether States parties can be held accountable for the conduct of non-State actors in stating that "... discrimination under the Convention is not restricted to action by or on behalf of Governments ..." and "[U]nder general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation". Against this backdrop, the immediate issue facing the Committee is whether the author of the communication is the victim of a violation of articles 2 (a), (b) and (e), 5 (a) and 16 of the Convention because, as she alleges, for the past four years the State party has failed in its duty to provide her with effective protection from the serious risk to her physical integrity, physical and mental health and her life from her former common law husband.

9.3 With regard to article 2 (a), (b), and (e), the Committee notes that the State party has admitted that the remedies pursued by the author were not capable of providing immediate protection to her against ill-treatment by her former partner and, furthermore, that legal and institutional arrangements in the State party are not yet ready to ensure the internationally expected, coordinated, comprehensive and effective protection and support for the victims of domestic violence. While appreciating the State party's efforts at instituting a comprehensive action programme against domestic violence and the legal and other measures envisioned, the Committee believes that these have yet to benefit the author and address her persistent situation of insecurity. The Committee further notes the State party's general assessment that domestic violence cases as such do not enjoy high priority in court proceedings. The Committee is of the opinion that the description provided of the proceedings resorted to in the present case, both the civil and criminal proceedings, coincides with this general assessment. Women's human rights to life and to physical and mental integrity cannot be superseded by other rights, including the right to property and the right to privacy. The Committee also takes note that the State party does not offer information as to the existence of alternative avenues that the author might have pursued that would have provided sufficient protection or security from the danger of continued violence. In this connection, the Committee recalls its concluding comments from August 2002 on the State party's combined fourth and fifth periodic report, which state "... [T]he Committee is concerned about the prevalence of violence against women and girls, including domestic violence. It is particularly concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment and that no protection or exclusion orders or shelters exist for the immediate protection of women victims of domestic violence". Bearing this in mind, the Committee concludes that the obligations of the State party set out in article 2 (a), (b) and (e) of the Convention extend to the

prevention of and protection from violence against women, which obligations in the present case, remain unfulfilled and constitute a violation of the author's human rights and fundamental freedoms, particularly her right to security of person.

9.4 The Committee addressed articles 5 and 16 together in its general recommendation No. 19 in dealing with family violence. In its general recommendation No. 21, the Committee stressed that "the provisions of general recommendation 19 ... concerning violence against women have great significance for women's abilities to enjoy rights and freedoms on an equal basis with men". It has stated on many occasions that traditional attitudes by which women are regarded as subordinate to men contribute to violence against them. The Committee recognized those very attitudes when it considered the combined fourth and fifth periodic report of Hungary in 2002. At that time it was concerned about the "persistence of entrenched traditional stereotypes regarding the role and responsibilities of women and men in the family ...". In respect of the case now before the Committee, the facts of the communication reveal aspects of the relationships between the sexes and attitudes towards women that the Committee recognized vis-à-vis the country as a whole. For four years and continuing to the present day, the author has felt threatened by her former common law husband, the father of her two children. The author has been battered by this same man, her former common law husband. She has been unsuccessful, either through civil or criminal proceedings, to temporarily or permanently bar L. F. from the apartment where she and her children have continued to reside. The author could not have asked for a restraining or protection order since neither option currently exists in the State party. She has been unable to flee to a shelter because none are equipped to accept her together with her children, one of whom is fully disabled. None of these facts have been disputed by the State party and, considered together, they indicate that the rights of the author under articles 5 (a) and 16 of the Convention have been violated.

9.5 The Committee also notes that the lack of effective legal and other measures prevented the State party from dealing in a satisfactory manner with the Committee's request for interim measures.

9.6 Acting under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Committee is of the view that the State party has failed to fulfil its obligations and has thereby violated the rights of the author under article 2 (a), (b) and (e) and article 5 (a) in conjunction with article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, and makes the following recommendations to the State party:

I. Concerning the author of the communication

(a) Take immediate and effective measures to guarantee the physical and mental integrity of A. T. and her family;

(b) Ensure that A. T. is given a safe home in which to live with her children, receives appropriate child support and legal assistance as well as reparation proportionate to the physical and mental harm undergone and to the gravity of the violations of her rights;

II. General

(a) Respect, protect, promote and fulfil women's human rights, including their right to be free from all forms of domestic violence, including intimidation and threats of violence;

(b) Assure victims of domestic violence the maximum protection of the law by acting with due diligence to prevent and respond to such violence against women;

(c) Take all necessary measures to ensure that the national strategy for the prevention and effective treatment of violence within the family is promptly implemented and evaluated;

(d) Take all necessary measures to provide regular training on the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto to judges, lawyers and law enforcement officials;

(e) Implement expeditiously and without delay the Committee's concluding comments of August 2002 on the combined fourth and fifth periodic report of Hungary in respect of violence against women and girls, in particular the Committee's recommendation that a specific law be introduced prohibiting domestic violence against women, which would provide for protection and exclusion orders as well as support services, including shelters;

(f) Investigate promptly, thoroughly, impartially and seriously all allegations of domestic violence and bring the offenders to justice in accordance with international standards;

(g) Provide victims of domestic violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure them available, effective and sufficient remedies and rehabilitation;

(h) Provide offenders with rehabilitation programmes and programmes on non-violent conflict resolution methods.

9.7 In accordance with article 7, paragraph 4, the State party shall give due consideration to the views of the Committee, together with its recommendations, and shall submit to the Committee, within six months, a written response, including any information on any action taken in the light of the views and recommendations of the Committee. The State party is also requested to publish the Committee's views and recommendations and to have them translated into the Hungarian language and widely distributed in order to reach all relevant sectors of society.